IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

WRIT PETITION (PIL) NO.13 OF 2006

Shri R.R.Tripathi — Petitioner

vs.

The Union of India & anr. — Respondents

Mr.Sanjay Punalekar for the petitioner.

Mr.R.R.Shetty with Mr.D.A.Dubey for the respondent no.1.

Mr.R.M.Sawant, Government Pleader for the respondent no.2.

CORAM : R.M. LODHA &
ANOOP V. MOHTA, JJ.

DATED : 15th February 2006

P.C.

Heard Mr.Sanjay Punalekar, the learned counsel for the petitioner.

2. By means of this writ petition filed in the nature of Public Interest Litigation, the petitioner prays for issuance of writ of Quo Warranto against the respondent no.3-Shri R.M.Premkumar.

3. Shri R.M.Premkumar is a member of Indian Administrative Service and Chief Secretary to the Government of Maharashtra. He was due to retire on 31st August 2005. The Government of India by its order dated

31st August 2005 extended the service Shri R.M.Premkumar for a period of three months from 1st September 2005 to 30th November 2005. Thereafter by a further order dated 30th November 2005, the Government of India extended his service for a further period of three months from 1st December 2005 to 28th February 2006.

4. The learned counsel for the petitioner contended that the extension in service of Shri R.M.Premkumar by the order dated 31st August 2005 was in colourable exercise of power. He would submit that no extension could have been granted to Shri R.M.Premkumar on the purported ground of deluge in the city of Mumbai on 26th July 2005. The learned counsel also contended that the second extension given to Shri R.M.Premkumar by order dated 30th November 2005 is bad in law.

5. As regards the first contention raised by the learned counsel for the petitioner, suffice it to say that the writ petition was filed by the petitioner on 2nd January 2006. By that time the first extension granted to the respondent no.3 upto 30th November 2005 was already over. Legality of the first extension granted to Shri R.M.Premkumar vide order dated 31st August, 2005, thus, cannot be gone into this writ petition.

6. In so far as the second extension granted to Shri R.M.Premkumar by order dated 30th November, 2005 is concerned, we may observe that the Government of India issued the notification in exercise of the powers conferred by sub-section (1) of Section 3 of the All India Services Act, 1951 in consultation with the Government of various States and made the provision that a Member in service holding the post of Chief Secretary may be given extension of service for a period not exceeding six months. The second extension of the respondent no.3 was granted on 30th November 2005 which was permissible by virtue of the notification issued on that very date which provided that extension of service to the member of All India Service holding the post of Chief Secretary could be given for six months. Obviously, as per the said proviso the extension has to be made on the recommendation by the concerned State Government with full justification and in public interest. That the consultation was made by the Central Government with the State Government is not in dispute. However, the learned counsel for the petitioner contended that the consultation was made at the time when the notification dated 30th November 2005 had not come into effect. In our considered view, this does not make any difference. The fact of the matter is that on the recommendation of the State Government of Maharashtra, the extension was given to Shri

R.M.Premkumar on 30th November 2005.

7. In view of what we have stated above, we find no merit in the Public Interest Litigation and it is dismissed. Needless to say that on 28th February 2006 Shri R.M.Premkumar shall complete benefit of six months extension and, therefore, he shall not be entitled to any further extension in law.

(R. M. LODHA, J.)

(ANOOP V. MOHTA, J.)